

DOA:.....Coomber – Court interpreters

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

DON'T CAT.  
GEN.  
the budget.  
1 AN ACT ~~relating to~~; providing court interpreters for persons with limited  
2 ability to speak or understand the English language and making an  
3 appropriation

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*Analysis by the Legislative Reference Bureau*

**COURTS AND PROCEDURE**

**CIRCUIT COURTS**

Under current law, if a court knows that a person charged with a crime, a parent or child subject to juvenile court proceedings, a person subject to mental health or protective service proceedings, or a witness to one of those proceedings, is unable to communicate and understand English because of a language difficulty or a disability, the court is required to tell the person that he or she has the right to an interpreter. If the person cannot afford to pay for an interpreter, current law requires the court to provide an interpreter at the public's expense. Current law allows courts to authorize the use of interpreters in other court proceedings. Administrative agencies are also authorized under current law to use interpreters in contested cases.

Currently, the expenses of furnishing an interpreter in the supreme court, court of appeals, or circuit court is paid by the director of state courts. If the state public defender needs an interpreter to assist in preparing an indigent for a court proceedings, current law requires the state public defender to pay the expenses. In municipal court and before administrative agencies, the unit of government involved

is required to pay the interpreter expenses. Current law limits the amount of fees for interpreters before a municipal court or an agency to \$10 per 0.5 day or higher fees established by the unit of government and \$35 per 0.5 day before a court of record or when assisting the state public defender. Current law also requires the payment of mileage at the rate of 20 cents per mile. *this bill does not change these amounts.*

Under ~~this~~ bill, the current law remains unchanged for interpreters at a municipal court or an agency proceeding and when assisting the public defender. Under the bill, if a person who is unable to understand or communicate in English due to a disability or because of his or her use of a language other than English is involved in a proceeding before a circuit court, court of appeals, or supreme court, that court is required to appoint an interpreter for the person. *a qualified* The interpreter must be able to readily communicate with the person, transfer the meaning of statements to and from English in the court-related proceedings, and accurately interpret, in a manner that conserves the meaning, tone, and style of the original statement. Under the bill, if a person with limited English proficiency due to a disability is serving on a jury in a circuit court, the court must appoint an interpreter to assist the person. The bill also allows the clerk of court to provide ~~an~~ interpreter to assist a person with limited English proficiency when that person asks the court for assistance regarding a legal proceeding, such as how to bring an action to obtain a domestic abuse injunction. ~~Interpreters are provided without charge under the bill without regard to the person's ability to pay for that interpreter's services.~~

Under the bill, the fee paid to an interpreter in the court of appeals or supreme court is determined by the supreme court. The expenses of providing an interpreter at the court of appeals or supreme court are paid by that court. If the interpreter is used at the circuit court level, the expenses of providing an interpreter at the circuit court are paid by the county. The bill requires the director of state courts to reimburse counties for expenses incurred in providing interpreters four times each year, at a rate of \$30 dollars for the first hour and \$15 for each additional 0.5 hour. If the interpreter is certified under requirements and procedures approved by the supreme court, the reimbursement rate under the bill is \$40 dollars for the first hour and \$20 for each additional 0.5 hour. The bill requires counties to submit reimbursement request forms within 90 days after each 3-month period has ended or lose reimbursement for that period. Under the bill, if state moneys are insufficient to fully reimburse the counties, the director of state courts must prorate the reimbursements.

The bill allows a person with limited English proficiency to waive the appointment of an interpreter if the court determines on the record that the waiver has been made knowingly, intelligently, and voluntarily, and allows the person to retract that waiver at any time during the court proceedings for good cause. ~~The bill establishes the mileage rate used for state employees as the mileage rate paid to interpreters.~~

*The bill requires the supreme court to adopt policies and procedures for the recruitment, training, testing, and retention of qualified interpreters, and requires the technical college system to assist the supreme court in the training and testing of those interpreters.*

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1        **SECTION 1.** 20.625 (1) (c) of the statutes is amended to read:

2        20.625 (1) (c) *Court interpreter fees.* The amounts in the schedule to pay  
3        interpreter fees reimbursed under s. ~~885.37 (4) (a) 2.~~ 758.19 (8).

4        **SECTION 2.** 46.295 (2) (c) of the statutes is amended to read:

5        46.295 (2) (c) Legal services and civil court proceedings, excluding those  
6        services covered under s. 885.38 for which reimbursement is provided under s.  
7        758.19 (8).

8        **SECTION 3.** 48.315 (1) (h) of the statutes is created to read:

9        48.315 (1) (h) Any period of delay resulting from the need to appoint a qualified  
10        interpreter.

11        **SECTION 4.** 48.375 (7) (d) 1m. of the statutes is amended to read:

12        48.375 (7) (d) 1m. Except as provided under s. 48.315 (1) (b), (c) ~~and~~, (f), and  
13        (h), if the court fails to comply with the time limits specified under subd. 1. without  
14        the prior consent of the minor and the minor's counsel, if any, or the member of the  
15        clergy who filed the petition on behalf of the minor, if any, the minor and the minor's  
16        counsel, if any, or the member of the clergy, if any, shall select a temporary reserve  
17        judge, as defined in s. 753.075 (1) (b), to make the determination under par. (c) and  
18        issue an order granting or denying the petition and the chief judge of the judicial  
19        administrative district in which the court is located shall assign the temporary  
20        reserve judge selected by the minor and the minor's counsel, if any, or the member  
21        of the clergy, if any, to make the determination and issue the order. A temporary

1 reserve judge assigned under this subdivision to make a determination under par.  
2 (c) and issue an order granting or denying a petition shall make the determination  
3 and issue the order within 2 calendar days after the assignment, unless the minor  
4 and her counsel, if any, or the member of the clergy who filed the petition on behalf  
5 of the minor, if any, consent to an extension of that time period. The order shall be  
6 effective immediately. The court shall prepare and file with the clerk of court  
7 findings of fact, conclusions of law and a final order granting or denying the petition,  
8 and shall notify the minor of the court's order, as provided under subd. 1.

9 **SECTION 5.** 758.19 (8) of the statutes is created to read:

10 758.19 (8) (a) From the appropriation under s. 20.625 (1) (c), the director of  
11 state courts shall reimburse counties 4 times each year for the actual expenses paid  
12 for interpreters required by circuit courts to assist persons with limited English  
13 proficiency under s. 885.38 (8) (a) 1. The amount of the reimbursement for mileage  
14 shall be an amount equal to the mileage rate that is set under s. 20.916 (8). The  
15 amount of the maximum hourly reimbursement for court interpreters shall be as  
16 follows:

17 1. Forty dollars for the first hour and \$20 for each additional 0.5 hour for  
18 qualified interpreters certified under the requirements and procedures approved by  
19 the supreme court.

20 2. Thirty dollars for the first hour and \$15 for each additional 0.5 hour for  
21 qualified interpreters, as defined in s. 885.38 (1) (c).

22 (b) To receive reimbursement under par. (a), a county must submit, on forms  
23 provided by the director of state courts, an accounting of the amount paid for  
24 expenses related to court interpreters that are eligible for reimbursement under par.

25 (a). The forms must include expenses for the preceding 3-month period and must

1 be submitted within 90 days after that 3-month period has ended. The director of  
2 state courts may not reimburse a county for any expenses related to court  
3 interpreters that are submitted after the 90-day period has ended. If moneys are  
4 insufficient to pay the full reimbursement to the counties, the director of state courts  
5 may prorate the payments. Reimbursement under par. (a) first applies to court  
6 interpreter expenses incurred on the effective date of this paragraph .... [revisor  
7 inserts date].

8 (c) The director of state courts shall annually adjust the maximum hourly  
9 reimbursement to counties for fees paid for court interpreters under par. (a) to reflect  
10 the changes in the consumer price index for all urban consumers, U.S. city average,  
11 as determined by the U.S. department of labor, with the adjusted limit to apply to  
12 interpreter services provided subsequent to the adjustments.

13 SECTION 6. 814.67 (1) (am) of the statutes is created to read:

14 814.67 (1) (am) For witnesses attending before a circuit court, \$16 per day.

15 SECTION 7. 814.67 (1) (b) (intro.) of the statutes is amended to read:

16 814.67 (1) (b) (intro.) For attending before ~~any other court~~ the court of appeals  
17 or the supreme court:

18 SECTION 8. 814.67 (1) (b) 2. of the statutes is amended to read:

19 814.67 (1) (b) 2. For interpreters, ~~\$35 per one-half day~~ a fee determined by the  
20 supreme court.

21 SECTION 9. 814.67 (1) (c) of the statutes is amended to read:

22 814.67 (1) (c) For traveling, at the ~~rate of 20 cents~~ mileage rate equal to the rate  
23 that is set under s. 20.916 (8), per mile going and returning from his or her residence  
24 if within the state; or, if without the state, from the point where he or she crosses the

1 state boundary to the place of attendance, and returning by the usually traveled  
2 route between such points.

3 SECTION 10. 885.37 (title) of the statutes is amended to read:

4 885.37 (title) Interpreters <sup>Plain Text</sup> ~~for persons with language difficulties or~~  
5 ~~hearing or speaking impairments in municipal courts and administrative~~  
6 ~~agency contested cases.~~ *limited English proficiency*

7 SECTION 11. 885.37 (1) (a) of the statutes is repealed.

8 SECTION 12. 885.37 (1) (b) of the statutes is amended to read:

9 885.37 (1) (b) If a municipal court has notice that a person who fits any of the  
10 criteria under par. (a) has a language difficulty because of the inability to speak or  
11 understand English, has a hearing impairment, is unable to speak or has a speech  
12 defect, the court shall make a factual determination of whether the language  
13 difficulty or the hearing or speaking impairment is sufficient to prevent the  
14 individual from communicating with his or her attorney, reasonably understanding  
15 the English testimony or reasonably being understood in English. If the court  
16 determines that an interpreter is necessary, the court shall advise the person that  
17 he or she has a right to a qualified interpreter and that, if the person cannot afford  
18 one, an interpreter will be provided for him or her at the public's expense. Any waiver  
19 of the right to an interpreter is effective only if made voluntarily in person, in open  
20 court and on the record.

21 SECTION 13. 885.37 (2) of the statutes is repealed.

22 SECTION 14. 885.37 (4) (a) of the statutes is repealed and recreated to read:

23 885.37 (4) (a) The necessary expense of furnishing an interpreter for an  
24 indigent person in a municipal court shall be paid by the municipality.

25 SECTION 15. 885.37 (5) (a) of the statutes is amended to read:

885.37 (5) (a) If a court under sub. (1) or (2) or an agency under sub. (3) decides to appoint an interpreter, the court or agency shall follow the applicable procedure under par. (b) or (c).

SECTION 16. 885.38 of the statutes is created to read:

~~885.38. Interpreters in circuit and appellate courts.~~ (1) In this section:

(a) "Court proceeding" means any proceeding before a court of record.

(b) "Limited English proficiency" means any of the following:

1. The inability, because of the use of a language other than English, to adequately understand or communicate effectively in English in a court proceeding.

2. The inability, due to a speech impairment, hearing loss, deafness, deaf-blindness, or other disability, to adequately hear, understand, or communicate effectively in English in a court proceeding.

(c) "Qualified interpreter" means a person who is able to do all of the following:

1. Readily communicate with a person who has limited English proficiency.

2. Orally transfer the meaning of statements to and from English and the language spoken by a person who has limited English proficiency in the context of a court proceeding.

3. Readily and accurately interpret for a person who has limited English proficiency, without omissions or additions, in a manner that conserves the meaning, tone, and style of the original statement, including dialect, slang, and specialized vocabulary.

(2) The supreme court shall establish the procedures and policies for the recruitment, training, and <sup>testing</sup> certification of persons to act as qualified interpreters in a court proceeding and for the coordination, discipline, <sup>and</sup> retention and training of those interpreters.

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SEC #: CR; 885.37(6) to (10)

(3) (a) The court shall appoint a qualified interpreter for a person in a court proceeding if the court determines that the person has limited English proficiency and the person is one of the following:

1. A party in interest.
2. A witness, while testifying in a court proceeding.
3. An alleged victim, as defined in s. 950.02 (4).
4. A parent or legal guardian of a minor party in interest or the legal guardian of a party in interest.

(b) The court may appoint more than one qualified interpreter in a court proceeding when necessary.

(c) If a person with limited English proficiency, as defined in sub. (1) (b) 2., is part of a jury panel in a court proceeding, the court shall appoint a qualified interpreter for that person.

885.37(6)(a)   
 (b) If a person with limited English proficiency requests the assistance of the clerk of circuit courts regarding a legal proceeding, the clerk may provide the assistance of a qualified interpreter to respond to the person's inquiry.

(c) A qualified interpreter appointed under this subsection may, with the approval of the court, provide interpreter services outside the court room that are related to the court proceedings, including during court-ordered psychiatric or medical exams or mediation.

(f) A qualified interpreter shall be appointed or provided under this subsection without regard to the ability of the person with limited English proficiency to pay for the costs of the qualified interpreter.

(g) (a) A person with limited English proficiency may waive the right to a qualified interpreter at any point in the court proceeding if the court advises the



1 person of the nature and effect of the waiver and determines on the record that the  
2 waiver has been made knowingly, intelligently, and voluntarily.

3 (b) At any point in the court proceeding, for good cause, the person with limited  
4 English proficiency may retract his or her waiver and request that a qualified  
5 interpreter be appointed.

6 (5) Every qualified interpreter, before commencing his or her duties in a court  
7 proceeding, shall take a sworn oath that he or she will make a true and impartial  
8 interpretation. The supreme court may approve a uniform oath for qualified  
9 interpreters.

10 (6) Any party to a court proceeding may object to the use of any qualified  
11 interpreter for good cause. The court may remove a qualified interpreter for good  
12 cause.

13 (7) The delay resulting from the need to locate and appoint a qualified  
14 interpreter may constitute good cause for the court to toll the time limitations in the  
15 court proceeding.

16 (8) (a) Except as provided in par. (b), the necessary expenses of providing  
17 qualified interpreters to persons with limited English proficiency under this section  
18 shall be paid as follows:

19 1. The county in which the circuit court is located shall pay the expenses in all  
20 proceedings before a circuit court and when the clerk of circuit court uses a qualified  
21 interpreter under sub. (3) (d). The county shall be reimbursed as provided in s.  
22 758.19 (8) for expenses paid under this subdivision.

23 2. The court of appeals shall pay the expenses in all proceedings before the court  
24 of appeals.

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from p.  
7, 15 22-25

3. The supreme court shall pay the expenses in all proceedings before the supreme court.

(b) The state public defender shall pay the expenses for interpreters assisting the state public defender in representing an indigent person in preparing for court proceedings.

SECTION 17. 905.015 of the statutes is amended to read:

**905.015 Interpreters for persons with language difficulties, limited English proficiency, or hearing or speaking impairments.** If an interpreter for a person with a language difficulty, limited English proficiency, as defined in s. 885.37 <sup>(19)(a)</sup> or a hearing or speaking impairment interprets as an aid to a communication which is privileged by statute, rules adopted by the supreme court, or the U.S. or state constitution, the interpreter may be prevented from disclosing the communication by any person who has a right to claim the privilege. The interpreter may claim the privilege but only on behalf of the person who has the right. The authority of the interpreter to do so is presumed in the absence of evidence to the contrary.

SECTION 18. 938.315 (1) (h) of the statutes is created to read:

938.315 (1) (h) Any period of delay resulting from the need to appoint a qualified interpreter.

SECTION 9309. Initial applicability; circuit courts.

(1) COURT INTERPRETERS. The treatment of sections 20.625 (1) (c), 46.295 (2) (c), 48.315 (1) (h), 48.375 (7) (d) 1m., 758.19 (8), 814.67 (1) (a), (b) (Intro.) and 2, and (c), 885.37 (title), (1) (a) and (b), (2), (4) (a), and (5) (a), 885.38, 905.015, and 938.315 (1) (h) of the statutes first applies to interpreters used by a clerk of court or appointed by a court on the effective date of this subsection.

(2),

(5)(a) and

1           **SECTION 9409. Effective dates; circuit courts.**

2           (1) COURT INTERPRETERS. The treatment of sections 20.625 (1) (c), 46.295 (2) (c),  
3           48.315 (1) (h), 48.375 (7) (d) 1m., 758.19 (8), 814.67 (1) (am), (b) (intro.) and 2., and  
4           (c), 885.37 (title), (1) (a) and (b), (2), (4) (a), and (5) (a), 885.38, 905.015, and 938.315  
5           (1) (h) of the statutes takes effect on <sup>July</sup>~~April~~ 1, 2002.

6

(END)

LPS:  
Copy stats. listed in (and paste here)  
Insert same  
as in InApp SECTION

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0094/4ins  
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1 insert 3-7: ✓

2 SECTION 1. 38.04 (28) of the statutes is created to read:

3 38.04 (28) <sup>CS</sup> <sup>No B</sup> **Training of qualified interpreters.** The board shall cooperate  
4 with the supreme court to provide training and testing programs for qualified  
5 interpreters under s. 885.37 (10). ✓

6  
7 insert 7-21: INS. 7-3

8 SECTION 2. 885.37 (1) of the statutes is renumbered 885.37 (1m), and 885.37  
9 (1m) (b), as renumbered, is amended to read:

10 885.37 (1m) (b) If a court has notice that a person who fits any of the criteria  
11 under par. (a) has <sup>strike space</sup> ~~a language difficulty because of the inability to speak or~~  
12 ~~understand English, has a hearing impairment, is unable to speak or has a speech~~  
13 ~~defect the court shall make a factual determination of whether the language~~  
14 ~~difficulty or the hearing or speaking impairment is sufficient to prevent the~~  
15 ~~individual from communicating with his or her attorney, reasonably understanding~~  
16 ~~the English testimony or reasonably being understood in English. If the court~~  
17 ~~determines that, limited English proficiency and that an interpreter is necessary, the~~  
18 ~~court shall advise the person that he or she has a right to a qualified interpreter and~~  
19 ~~that, if the person cannot afford one, an interpreter will be provided for him or her~~  
20 ~~at the public's expense. Any waiver of the right to an interpreter is effective only if~~  
21 ~~made voluntarily in person, in open court and on the record.~~

22 History: Sup. Ct. Order, 67 Wis. 2d 585, 760 (1975); 1975 c. 106, 199; Stats. 1975 s. 885.37; 1985 a. 266; 1987 a. 27; 1995 a. 27 ss. 7207 to 7209, 9126 (19); 1995 a. 77.

INS. 7-21B ✓  
SECTION 3. 885.37 (3) (b) of the statutes is amended to read:

*strike  
space*

1 885.37 (3) (b) In any administrative contested case proceeding before a state,  
2 <sup>v</sup>  
3 county, or municipal agency, if the agency conducting the proceeding has notice that  
4 a party to the proceeding has ~~a language difficulty because of the inability to speak~~  
5 ~~or understand English, has a hearing impairment, is unable to speak or has a speech~~  
6 ~~defect, the agency shall make a factual determination of whether the language~~  
7 ~~difficulty or hearing or speaking impairment is sufficient to prevent the party from~~  
8 ~~communicating with others, reasonably understanding the English testimony or~~  
9 ~~reasonably being understood in English. If the agency determines limited English~~  
10 ~~proficiency and that an interpreter is necessary, the agency shall advise the party~~  
11 that he or she has a right to a qualified interpreter. After considering the party's  
12 ability to pay and the other needs of the party, the agency may provide for an  
13 interpreter for the party at the public's expense. Any waiver of the right to an  
14 interpreter is effective only if made at the administrative contested case proceeding.

History: Sup. Ct. Order, 67 Wis. 2d 585, 760 (1975); 1975 c. 106, 199; Stats. 1975 s. 885.37; 1985 a. 266; 1987 a. 27; 1995 a. 27 ss. 7207 to 7209, 9126 (19); 1995 a. 77.

14 **SECTION 4.** 885.37 (3m) of the statutes is amended to read:

15 885.37 (3m) Any agency may authorize the use of an a qualified interpreter in  
16 a contested case proceeding for a person who is not a party but who has a substantial  
17 interest in the proceeding.

History: Sup. Ct. Order, 67 Wis. 2d 585, 760 (1975); 1975 c. 106, 199; Stats. 1975 s. 885.37; 1985 a. 266; 1987 a. 27; 1995 a. 27 ss. 7207 to 7209, 9126 (19); 1995 a. 77.

18 **SECTION 5.** 885.37 (4) (a) (intro.) of the statutes is amended to read:

19 885.37 (4) (a) (intro.) The necessary expense of furnishing an a qualified  
20 interpreter for an indigent person under sub. ~~(1)~~ <sup>(1m)</sup> or (2) shall be paid as follows:

History: Sup. Ct. Order, 67 Wis. 2d 585, 760 (1975); 1975 c. 106, 199; Stats. 1975 s. 885.37; 1985 a. 266; 1987 a. 27; 1995 a. 27 ss. 7207 to 7209, 9126 (19); 1995 a. 77.

21 **SECTION 6.** 885.37 (4) (b) of the statutes is amended to read:

1           885.37 (4) (b) The necessary expense of furnishing ~~an~~ a qualified interpreter  
2       for an indigent party under sub. (3) shall be paid by the unit of government for which  
3       the proceeding is held.

4       History: Sup. Ct. Order, 67 Wis. 2d 585, 760 (1975); 1975 c. 106, 199; Stats. 1975 s. 885.37; 1985 a. 266; 1987 a. 27; 1995 a. 27 ss. 7207 to 7209, 9126 (19); 1995 a. 77.

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**SECTION 1.** 885.37 (2) of the statutes is amended to read:

885.37 (2) A court may authorize the use of an interpreter in actions or proceedings in addition to those specified in sub. ~~(1)~~ (1m).

**History:** Sup. Ct. Order, 67 Wis. 2d 585, 760 (1975); 1975 c. 106, 199; Stats. 1975 s. 885.37; 1985 a. 266; 1987 a. 27; 1995 a. 27 ss. 7207 to 7209, 9126 (19); 1995 a. 77.

**INSERT 7-21C**

**SECTION 2.** 885.37 (5) (a) of the statutes is amended to read:

885.37 (5) (a) If a court under sub. ~~(1)~~ (1m) or (2) or an agency under sub. (3) decides to appoint an interpreter, the court or agency shall follow the applicable procedure under par. (b) or (c).

**History:** Sup. Ct. Order, 67 Wis. 2d 585, 760 (1975); 1975 c. 106, 199; Stats. 1975 s. 885.37; 1985 a. 266; 1987 a. 27; 1995 a. 27 ss. 7207 to 7209, 9126 (19); 1995 a. 77.

Remove Section 1

- 0094

Recommend that the

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fee to develop

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qualified interpreters

Brett Lamber 2/7 1:30pm





State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0094/4

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Today 2/7

DOA:.....Coomber - Court interpreters

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT <sup>DONIT GEN. CAT.</sup> relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**COURTS AND PROCEDURE**

**CIRCUIT COURTS**

Under current law, if a court knows that a person charged with a crime, a parent or child subject to juvenile court proceedings, a person subject to mental health or protective service proceedings, or a witness to one of those proceedings, is unable to communicate and understand English because of a language difficulty or a disability, the court is required to tell the person that he or she has the right to an interpreter. If the person cannot afford to pay for an interpreter, current law requires the court to provide an interpreter at the public's expense. Current law allows courts to authorize the use of interpreters in other court proceedings. Administrative agencies are also authorized under current law to use interpreters in contested cases.

Currently, the expenses of furnishing an interpreter in the supreme court, court of appeals, or circuit court is paid by the director of state courts. If the state public defender needs an interpreter to assist in preparing an indigent for a court proceedings, current law requires the state public defender to pay the expenses. In municipal court and before administrative agencies, the unit of government involved is required to pay the interpreter expenses. Current law limits the amount of fees for interpreters before a municipal court or an agency to \$10 per 0.5 day or higher fees established by the unit of government and \$35 per 0.5 day before a court of record or when assisting the state public defender. Current law also requires the payment of mileage at the rate of 20 cents per mile. This bill does not change these amounts.

Under the bill, a qualified interpreter must be able to readily communicate with the person, transfer the meaning of statements to and from English in the court-related proceedings, and accurately interpret, in a manner that conserves the meaning, tone, and style of the original statement. The bill also allows the clerk of court to provide a qualified interpreter to assist a person with limited English proficiency when that person asks the court for assistance regarding a legal proceeding, such as how to bring an action to obtain a domestic abuse injunction.

The bill allows a person with limited English proficiency to waive the appointment of an interpreter if the court determines on the record that the waiver has been made knowingly, intelligently, and voluntarily, and allows the person to retract that waiver at any time during the court proceedings for good cause.

The bill requires the supreme court to adopt policies and procedures for the recruitment, training, testing, and retention of qualified interpreters, and ~~requires the technical college system to assist the supreme court in the training and testing of those interpreters.~~ *requests that* *cooperate with*

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 38.04 (28) of the statutes is created to read:

2       **38.04 (28) TRAINING OF QUALIFIED INTERPRETERS.** The board shall cooperate with  
3       the supreme court to provide training and testing programs for qualified interpreters  
4       under s. 885.37 (10).

5       **SECTION 2.** 48.315 (1) (h) of the statutes is created to read:

6       **48.315 (1) (h)** Any period of delay resulting from the need to appoint a qualified  
7       interpreter.

8       **SECTION 3.** 48.375 (7) (d) 1m. of the statutes is amended to read:

9       **48.375 (7) (d) 1m.** Except as provided under s. 48.315 (1) (b), (c) and, (f), and  
10       (h), if the court fails to comply with the time limits specified under subd. 1. without  
11       the prior consent of the minor and the minor's counsel, if any, or the member of the  
12       clergy who filed the petition on behalf of the minor, if any, the minor and the minor's  
13       counsel, if any, or the member of the clergy, if any, shall select a temporary reserve

1 judge, as defined in s. 753.075 (1) (b), to make the determination under par. (c) and  
2 issue an order granting or denying the petition and the chief judge of the judicial  
3 administrative district in which the court is located shall assign the temporary  
4 reserve judge selected by the minor and the minor's counsel, if any, or the member  
5 of the clergy, if any, to make the determination and issue the order. A temporary  
6 reserve judge assigned under this subdivision to make a determination under par.  
7 (c) and issue an order granting or denying a petition shall make the determination  
8 and issue the order within 2 calendar days after the assignment, unless the minor  
9 and her counsel, if any, or the member of the clergy who filed the petition on behalf  
10 of the minor, if any, consent to an extension of that time period. The order shall be  
11 effective immediately. The court shall prepare and file with the clerk of court  
12 findings of fact, conclusions of law and a final order granting or denying the petition,  
13 and shall notify the minor of the court's order, as provided under subd. 1.

14 **SECTION 4.** 885.37 (title) of the statutes is amended to read:

15 **885.37 (title) Interpreters for persons with language difficulties or**  
16 **hearing or speaking impairments limited English proficiency.**

17 **SECTION 5.** 885.37 (1) of the statutes is renumbered 885.37 (1m), and 885.37  
18 (1m) (b), as renumbered, is amended to read:

19 885.37 (1m) (b) If a court has notice that a person who fits any of the criteria  
20 under par. (a) has ~~a language difficulty because of the inability to speak or~~  
21 ~~understand English, has a hearing impairment, is unable to speak or has a speech~~  
22 ~~defect the court shall make a factual determination of whether the language~~  
23 ~~difficulty or the hearing or speaking impairment is sufficient to prevent the~~  
24 ~~individual from communicating with his or her attorney, reasonably understanding~~  
25 ~~the English testimony or reasonably being understood in English. If the court~~

1 ~~determines that, limited English proficiency and that~~ an interpreter is necessary, the  
2 court shall advise the person that he or she has a right to a qualified interpreter and  
3 that, if the person cannot afford one, an interpreter will be provided for him or her  
4 at the public's expense. ~~Any waiver of the right to an interpreter is effective only if~~  
5 ~~made voluntarily in person, in open court and on the record.~~

6 **SECTION 6.** 885.37 (1g) of the statutes is created to read:

7 885.37 (1g) In this section:

8 (a) "Limited English proficiency" means any of the following:

9 1. The inability, because of the use of a language other than English, to  
10 adequately understand or communicate effectively in English in a court proceeding.

11 2. The inability, due to a speech impairment, hearing loss, deafness,  
12 deaf-blindness, or other disability, to adequately hear, understand, or communicate  
13 effectively in English in a court proceeding.

14 (b) "Qualified interpreter" means a person who is able to do all of the following:

15 1. Readily communicate with a person who has limited English proficiency.

16 2. Orally transfer the meaning of statements to and from English and the  
17 language spoken by a person who has limited English proficiency in the context of  
18 a court proceeding.

19 3. Readily and accurately interpret for a person who has limited English  
20 proficiency, without omissions or additions, in a manner that conserves the meaning,  
21 tone, and style of the original statement, including dialect, slang, and specialized  
22 vocabulary.

23 **SECTION 7.** 885.37 (2) of the statutes is amended to read:

24 885.37 (2) A court may authorize the use of an interpreter in actions or  
25 proceedings in addition to those specified in sub. (1) (1m).

1           **SECTION 8.** 885.37 (3) (b) of the statutes is amended to read:

2           885.37 (3) (b) In any administrative contested case proceeding before a state,  
3 county, or municipal agency, if the agency conducting the proceeding has notice that  
4 a party to the proceeding has ~~a language difficulty because of the inability to speak~~  
5 ~~or understand English, has a hearing impairment, is unable to speak or has a speech~~  
6 ~~defect, the agency shall make a factual determination of whether the language~~  
7 ~~difficulty or hearing or speaking impairment is sufficient to prevent the party from~~  
8 ~~communicating with others, reasonably understanding the English testimony or~~  
9 ~~reasonably being understood in English. If the agency determines limited English~~  
10 ~~proficiency and~~ that an interpreter is necessary, the agency shall advise the party  
11 that he or she has a right to a qualified interpreter. After considering the party's  
12 ability to pay and the other needs of the party, the agency may provide for an  
13 interpreter for the party at the public's expense. Any waiver of the right to an  
14 interpreter is effective only if made at the administrative contested case proceeding.

15           **SECTION 9.** 885.37 (3m) of the statutes is amended to read:

16           885.37 (3m) Any agency may authorize the use of ~~an~~ a qualified interpreter in  
17 a contested case proceeding for a person who is not a party but who has a substantial  
18 interest in the proceeding.

19           **SECTION 10.** 885.37 (4) (a) (intro.) of the statutes is amended to read:

20           885.37 (4) (a) (intro.) The necessary expense of furnishing ~~an~~ a qualified  
21 interpreter for an indigent person under sub. ~~(1)~~ (1m) or (2) shall be paid as follows:

22           **SECTION 11.** 885.37 (4) (b) of the statutes is amended to read:

23           885.37 (4) (b) The necessary expense of furnishing ~~an~~ a qualified interpreter  
24 for an indigent party under sub. (3) shall be paid by the unit of government for which  
25 the proceeding is held.

1           **SECTION 12.** 885.37 (5) (a) of the statutes is amended to read:

2           885.37 **(5)** (a) If a court under sub. ~~(1)~~ (1m) or (2) or an agency under sub. (3)  
3 decides to appoint an interpreter, the court or agency shall follow the applicable  
4 procedure under par. (b) or (c).

5           **SECTION 13.** 885.37 (6) to (10) of the statutes are created to read:

6           885.37 **(6)** (a) If a person with limited English proficiency requests the  
7 assistance of the clerk of circuit courts regarding a legal proceeding, the clerk may  
8 provide the assistance of a qualified interpreter to respond to the person's inquiry.

9           (b) A qualified interpreter appointed under this section may, with the approval  
10 of the court, provide interpreter services outside the court room that are related to  
11 the court proceedings, including during court-ordered psychiatric or medical exams  
12 or mediation.

13           **(7)** (a) A person with limited English proficiency may waive the right to a  
14 qualified interpreter at any point in the court proceeding if the court advises the  
15 person of the nature and effect of the waiver and determines on the record that the  
16 waiver has been made knowingly, intelligently, and voluntarily.

17           (b) At any point in the court proceeding, for good cause, the person with limited  
18 English proficiency may retract his or her waiver and request that a qualified  
19 interpreter be appointed.

20           (c) Any party to a court proceeding may object to the use of any qualified  
21 interpreter for good cause. The court may remove a qualified interpreter for good  
22 cause.

23           **(8)** Every qualified interpreter, before commencing his or her duties in a court  
24 proceeding, shall take a sworn oath that he or she will make a true and impartial

1 interpretation. The supreme court may approve a uniform oath for qualified  
2 interpreters.

3 (9) The delay resulting from the need to locate and appoint a qualified  
4 interpreter may constitute good cause for the court to toll the time limitations in the  
5 court proceeding.

6 (10) The supreme court shall establish the procedures and policies for the  
7 recruitment, training, and testing of persons to act as qualified interpreters in a  
8 court proceeding and for the coordination, discipline, and retention of those  
9 interpreters.

10 **SECTION 14.** 905.015 of the statutes is amended to read:

11 **905.015 Interpreters for persons with language difficulties, limited**  
12 **English proficiency, or hearing or speaking impairments.** If an interpreter  
13 for a person with a language difficulty, limited English proficiency, as defined in s.  
14 885.37 (1g) (a), or a hearing or speaking impairment interprets as an aid to a  
15 communication which is privileged by statute, rules adopted by the supreme court,  
16 or the U.S. or state constitution, the interpreter may be prevented from disclosing  
17 the communication by any person who has a right to claim the privilege. The  
18 interpreter may claim the privilege but only on behalf of the person who has the  
19 right. The authority of the interpreter to do so is presumed in the absence of evidence  
20 to the contrary.

21 **SECTION 15.** 938.315 (1) (h) of the statutes is created to read:

22 938.315 (1) (h) Any period of delay resulting from the need to appoint a  
23 qualified interpreter.

24 **SECTION 9309. Initial applicability; circuit courts.**

✓  
insert  
7-23  
→

*auto ref. "KA"*

1 (1) COURT INTERPRETERS. The treatment of sections ~~38.04 (28)~~ 48.315 (1) (h),  
2 48.375 (7) (d) 1m., 885.37 (title), (1), (1g), (2), (3) (b), (3m), (4) (a) (intro.) and (b), (5)  
3 (a) and (6) to (10), 905.015, and 938.315 (1) (h) of the statutes first applies to  
4 interpreters used or appointed on the effective date of this subsection.

5 **SECTION 9409. Effective dates; circuit courts.**

6 (1) COURT INTERPRETERS. The treatment of sections ~~38.04 (28)~~ 48.315 (1) (h),  
7 48.375 (7) (d) 1m., 885.37 (title), (1), (1g), (2), (3) (b), (3m), (4) (a) (intro.) and (b), (5)  
8 (a) and (6) to (10), 905.015, and 938.315 (1) (h) of the statutes takes effect on July 1,  
9 2002.

10 (END)

*and SECTION  
9309 (1) of this  
act*

*auto  
ref. "KA"*



2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0094/5ins  
RPN:kmg:pg

1 insert 7-23: ✓

2 SECTION 9147. Nonstatutory provisions; supreme court.

3 (1) COURT INTERPRETER TRAINING. The supreme court is requested to cooperate  
4 with the technical college system board in the development and implementation of  
5 a curriculum and testing program for <sup>training</sup> qualified interpreters.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0094/5

RPN:kmg:kjf

DOA:.....Coomber – Court interpreters

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**COURTS AND PROCEDURE**

**CIRCUIT COURTS**

Under current law, if a court knows that a person charged with a crime, a parent or child subject to juvenile court proceedings, a person subject to mental health or protective service proceedings, or a witness to one of those proceedings, is unable to communicate and understand English because of a language difficulty or a disability, the court is required to tell the person that he or she has the right to an interpreter. If the person cannot afford to pay for an interpreter, current law requires the court to provide an interpreter at the public's expense. Current law allows courts to authorize the use of interpreters in other court proceedings. Administrative agencies are also authorized under current law to use interpreters in contested cases.

Currently, the expenses of furnishing an interpreter in the supreme court, court of appeals, or circuit court is paid by the director of state courts. If the state public defender needs an interpreter to assist in preparing an indigent for a court proceedings, current law requires the state public defender to pay the expenses. In municipal court and before administrative agencies, the unit of government involved is required to pay the interpreter expenses. Current law limits the amount of fees for interpreters before a municipal court or an agency to \$10 per 0.5 day or higher fees established by the unit of government and \$35 per 0.5 day before a court of record or when assisting the state public defender. Current law also requires the payment of mileage at the rate of 20 cents per mile. This bill does not change these amounts.

Under the bill, a qualified interpreter must be able to readily communicate with the person, transfer the meaning of statements to and from English in the court-related proceedings, and accurately interpret, in a manner that conserves the meaning, tone, and style of the original statement. The bill also allows the clerk of court to provide a qualified interpreter to assist a person with limited English proficiency when that person asks the court for assistance regarding a legal proceeding, such as how to bring an action to obtain a domestic abuse injunction.

The bill allows a person with limited English proficiency to waive the appointment of an interpreter if the court determines on the record that the waiver has been made knowingly, intelligently, and voluntarily, and allows the person to retract that waiver at any time during the court proceedings for good cause.

The bill requires the supreme court to adopt policies and procedures for the recruitment, training, testing, and retention of qualified interpreters, and requests that the supreme court cooperate with the technical college system in the training and testing of those interpreters.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 48.315 (1) (h) of the statutes is created to read:

2           48.315 (1) (h) Any period of delay resulting from the need to appoint a qualified  
3 interpreter.

4           **SECTION 2.** 48.375 (7) (d) 1m. of the statutes is amended to read:

5           48.375 (7) (d) 1m. Except as provided under s. 48.315 (1) (b), (c) ~~and~~, (f), and  
6 (h), if the court fails to comply with the time limits specified under subd. 1. without  
7 the prior consent of the minor and the minor's counsel, if any, or the member of the  
8 clergy who filed the petition on behalf of the minor, if any, the minor and the minor's  
9 counsel, if any, or the member of the clergy, if any, shall select a temporary reserve  
10 judge, as defined in s. 753.075 (1) (b), to make the determination under par. (c) and  
11 issue an order granting or denying the petition and the chief judge of the judicial  
12 administrative district in which the court is located shall assign the temporary  
13 reserve judge selected by the minor and the minor's counsel, if any, or the member

1 of the clergy, if any, to make the determination and issue the order. A temporary  
2 reserve judge assigned under this subdivision to make a determination under par.  
3 (c) and issue an order granting or denying a petition shall make the determination  
4 and issue the order within 2 calendar days after the assignment, unless the minor  
5 and her counsel, if any, or the member of the clergy who filed the petition on behalf  
6 of the minor, if any, consent to an extension of that time period. The order shall be  
7 effective immediately. The court shall prepare and file with the clerk of court  
8 findings of fact, conclusions of law and a final order granting or denying the petition,  
9 and shall notify the minor of the court's order, as provided under subd. 1.

10 **SECTION 3.** 885.37 (title) of the statutes is amended to read:

11 **885.37 (title) Interpreters for persons with language difficulties or**  
12 **hearing or speaking impairments limited English proficiency.**

13 **SECTION 4.** 885.37 (1) of the statutes is renumbered 885.37 (1m), and 885.37  
14 (1m) (b), as renumbered, is amended to read:

15 885.37 (1m) (b) If a court has notice that a person who fits any of the criteria  
16 under par. (a) has ~~a language difficulty because of the inability to speak or~~  
17 ~~understand English, has a hearing impairment, is unable to speak or has a speech~~  
18 ~~defect the court shall make a factual determination of whether the language~~  
19 ~~difficulty or the hearing or speaking impairment is sufficient to prevent the~~  
20 ~~individual from communicating with his or her attorney, reasonably understanding~~  
21 ~~the English testimony or reasonably being understood in English. If the court~~  
22 ~~determines that, limited English proficiency and that an interpreter is necessary, the~~  
23 court shall advise the person that he or she has a right to a qualified interpreter and  
24 that, if the person cannot afford one, an interpreter will be provided for him or her

1 at the public's expense. ~~Any waiver of the right to an interpreter is effective only if~~  
2 ~~made voluntarily in person, in open court and on the record.~~

3 **SECTION 5.** 885.37 (1g) of the statutes is created to read:

4 885.37 (1g) In this section:

5 (a) "Limited English proficiency" means any of the following:

6 1. The inability, because of the use of a language other than English, to  
7 adequately understand or communicate effectively in English in a court proceeding.

8 2. The inability, due to a speech impairment, hearing loss, deafness,  
9 deaf-blindness, or other disability, to adequately hear, understand, or communicate  
10 effectively in English in a court proceeding.

11 (b) "Qualified interpreter" means a person who is able to do all of the following:

12 1. Readily communicate with a person who has limited English proficiency.

13 2. Orally transfer the meaning of statements to and from English and the  
14 language spoken by a person who has limited English proficiency in the context of  
15 a court proceeding.

16 3. Readily and accurately interpret for a person who has limited English  
17 proficiency, without omissions or additions, in a manner that conserves the meaning,  
18 tone, and style of the original statement, including dialect, slang, and specialized  
19 vocabulary.

20 **SECTION 6.** 885.37 (2) of the statutes is amended to read:

21 885.37 (2) A court may authorize the use of an interpreter in actions or  
22 proceedings in addition to those specified in sub. (1) (1m).

23 **SECTION 7.** 885.37 (3) (b) of the statutes is amended to read:

24 885.37 (3) (b) In any administrative contested case proceeding before a state,  
25 county, or municipal agency, if the agency conducting the proceeding has notice that

1 a party to the proceeding has ~~a language difficulty because of the inability to speak~~  
2 ~~or understand English, has a hearing impairment, is unable to speak or has a speech~~  
3 ~~defect, the agency shall make a factual determination of whether the language~~  
4 ~~difficulty or hearing or speaking impairment is sufficient to prevent the party from~~  
5 ~~communicating with others, reasonably understanding the English testimony or~~  
6 ~~reasonably being understood in English. If the agency determines limited English~~  
7 ~~proficiency and that an interpreter is necessary, the agency shall advise the party~~  
8 ~~that he or she has a right to a qualified interpreter. After considering the party's~~  
9 ~~ability to pay and the other needs of the party, the agency may provide for an~~  
10 ~~interpreter for the party at the public's expense. Any waiver of the right to an~~  
11 ~~interpreter is effective only if made at the administrative contested case proceeding.~~

12 **SECTION 8.** 885.37 (3m) of the statutes is amended to read:

13 885.37 (3m) Any agency may authorize the use of an a qualified interpreter in  
14 a contested case proceeding for a person who is not a party but who has a substantial  
15 interest in the proceeding.

16 **SECTION 9.** 885.37 (4) (a) (intro.) of the statutes is amended to read:

17 885.37 (4) (a) (intro.) The necessary expense of furnishing ~~an~~ a qualified  
18 interpreter for an indigent person under sub. (1) (1m) or (2) shall be paid as follows:

19 **SECTION 10.** 885.37 (4) (b) of the statutes is amended to read:

20 885.37 (4) (b) The necessary expense of furnishing ~~an~~ a qualified interpreter  
21 for an indigent party under sub. (3) shall be paid by the unit of government for which  
22 the proceeding is held.

23 **SECTION 11.** 885.37 (5) (a) of the statutes is amended to read:

1           885.37 (5) (a) If a court under sub. ~~(1)~~ (1m) or (2) or an agency under sub. (3)  
2 decides to appoint an interpreter, the court or agency shall follow the applicable  
3 procedure under par. (b) or (c).

4           **SECTION 12.** 885.37 (6) to (10) of the statutes are created to read:

5           885.37 (6) (a) If a person with limited English proficiency requests the  
6 assistance of the clerk of circuit courts regarding a legal proceeding, the clerk may  
7 provide the assistance of a qualified interpreter to respond to the person's inquiry.

8           (b) A qualified interpreter appointed under this section may, with the approval  
9 of the court, provide interpreter services outside the court room that are related to  
10 the court proceedings, including during court-ordered psychiatric or medical exams  
11 or mediation.

12           (7) (a) A person with limited English proficiency may waive the right to a  
13 qualified interpreter at any point in the court proceeding if the court advises the  
14 person of the nature and effect of the waiver and determines on the record that the  
15 waiver has been made knowingly, intelligently, and voluntarily.

16           (b) At any point in the court proceeding, for good cause, the person with limited  
17 English proficiency may retract his or her waiver and request that a qualified  
18 interpreter be appointed.

19           (c) Any party to a court proceeding may object to the use of any qualified  
20 interpreter for good cause. The court may remove a qualified interpreter for good  
21 cause.

22           (8) Every qualified interpreter, before commencing his or her duties in a court  
23 proceeding, shall take a sworn oath that he or she will make a true and impartial  
24 interpretation. The supreme court may approve a uniform oath for qualified  
25 interpreters.

1           (9) The delay resulting from the need to locate and appoint a qualified  
2 interpreter may constitute good cause for the court to toll the time limitations in the  
3 court proceeding.

4           (10) The supreme court shall establish the procedures and policies for the  
5 recruitment, training, and testing of persons to act as qualified interpreters in a  
6 court proceeding and for the coordination, discipline, and retention of those  
7 interpreters.

8           **SECTION 13.** 905.015 of the statutes is amended to read:

9           **905.015 Interpreters for persons with language difficulties, limited**  
10 **English proficiency, or hearing or speaking impairments.** If an interpreter  
11 for a person with a language difficulty, limited English proficiency, as defined in s.  
12 885.37 (1g) (a), or a hearing or speaking impairment interprets as an aid to a  
13 communication which is privileged by statute, rules adopted by the supreme court,  
14 or the U.S. or state constitution, the interpreter may be prevented from disclosing  
15 the communication by any person who has a right to claim the privilege. The  
16 interpreter may claim the privilege but only on behalf of the person who has the  
17 right. The authority of the interpreter to do so is presumed in the absence of evidence  
18 to the contrary.

19           **SECTION 14.** 938.315 (1) (h) of the statutes is created to read:

20           938.315 (1) (h) Any period of delay resulting from the need to appoint a  
21 qualified interpreter.

22           **SECTION 9147. Nonstatutory provisions; supreme court.**

23           (1) COURT INTERPRETER TRAINING. The supreme court is requested to cooperate  
24 with the technical college system board in the development and implementation of  
25 a curriculum and testing program for training qualified interpreters.



**SECTION 9309. Initial applicability; circuit courts.**

(1) COURT INTERPRETERS. The treatment of sections 48.315 (1) (h), 48.375 (7) (d) 1m., 885.37 (title), (1), (1g), (2), (3) (b), (3m), (4) (a) (intro.) and (b), (5) (a), and (6) to (10), 905.015, and 938.315 (1) (h) of the statutes first applies to interpreters used or appointed on the effective date of this subsection.

**SECTION 9409. Effective dates; circuit courts.**

(1) COURT INTERPRETERS. The treatment of sections 48.315 (1) (h), 48.375 (7) (d) 1m., 885.37 (title), (1), (1g), (2), (3) (b), (3m), (4) (a) (intro.) and (b), (5) (a), and (6) to (10), 905.015, and 938.315 (1) (h) of the statutes and SECTION 9309 (1) of this act take effect on July 1, 2002.

(END)